

SECOND REGULAR SESSION

# SENATE BILL NO. 1136

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CALLAHAN.

Read 1st time February 14, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4790S.011

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## AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof four new sections relating to tax incentives for secondary mining uses.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 144.030, RSMo, is repealed and four new sections  
2 enacted in lieu thereof, to be known as sections 135.567, 135.568, 135.569, and  
3 144.030, to read as follows:

135.567. 1. This section shall be known and may be cited as the  
2 "Secondary Mining Use Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of the department of revenue;

6 (3) "Eligible costs", expenses incurred by a taxpayer for the  
7 utilization of existing mines for secondary uses including, but not  
8 limited to, architectural, engineering, site preparation, advertising, and  
9 legal fees;

10 (4) "Existing mine for secondary use", a mine with usable  
11 secondary space of one million or more square feet;

12 (5) "Notice of intent", a form developed by the department of  
13 economic development, completed by the taxpayer and submitted to the  
14 department which states the taxpayer's intent to utilize an existing  
15 mine for secondary use;

16 (6) "Tax liability", the tax due under chapters 143, 147, or 148,  
17 RSMo, other than taxes withheld under sections 143.191 to 143.265,  
18 RSMo;

19           (7) "Taxpayer", a person, firm, a partner in a firm, corporation,  
20 or a shareholder in an S corporation doing business in the state of  
21 Missouri and subject to the state income tax imposed by the provisions  
22 of chapter 143, RSMo, or a corporation subject to the annual  
23 corporation franchise tax imposed by the provisions of chapter 147,  
24 RSMo, or an insurance company paying an annual tax on its gross  
25 premium receipts in this state, or an insurance company organized to  
26 do business on a not-for-profit basis, or other financial institution  
27 paying taxes to the state of Missouri or any political subdivision of this  
28 state under the provisions of chapter 148, RSMo, or an individual  
29 subject to the state income tax imposed by the provisions of chapter  
30 143, RSMo.

31           3. If any taxpayer incurs eligible costs for the utilization of an  
32 existing mine for secondary use, such taxpayer shall receive a tax  
33 credit against such taxpayer's Missouri income tax liability in an  
34 amount equal to the lesser of one hundred percent of such costs or one  
35 hundred thousand dollars, provided the taxpayer has received an  
36 approval from the department of economic development. Tax credits  
37 issued under this subsection are not refundable, but may be carried  
38 forward five years until the credit is fully used. Tax credits issued in  
39 accordance with this section may be transferred, sold or assigned by  
40 notarized endorsement thereof which names the transferee.

41           4. In no event shall the aggregate amount of all tax credits  
42 allowed under this section exceed one million dollars per fiscal year.

43           5. In order to receive tax credits under this section, a taxpayer  
44 shall first file a notice of intent with the department of economic  
45 development. The department shall issue approval based upon the  
46 merit of the application and grant preference to those applications  
47 which the department of economic development deems to possess a  
48 likelihood of positive economic impact. The department of economic  
49 development shall respond within thirty days to a company who  
50 provides a notice of intent with either a proposal or a rejection of the  
51 notice of intent. Failure to respond on behalf of the department of  
52 economic development shall result in the notice of intent being deemed  
53 a proposal for the purposes of this section. A taxpayer who is provided  
54 a proposal for a project shall be allowed a benefit as provided in this

55 program in the amount and duration provided in this section. A  
56 taxpayer shall claim a credit allowed by this section at the time such  
57 taxpayer files his or her Missouri income tax return, provided that such  
58 return is filed in a timely manner.

59 6. The department may promulgate such rules or regulations as  
60 are necessary to administer the provisions of this section. Any rule or  
61 portion of a rule, as that term is defined in section 536.010, RSMo, that  
62 is created under the authority delegated in this section shall become  
63 effective only if it complies with and is subject to all of the provisions  
64 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
65 section and chapter 536, RSMo, are nonseverable and if any of the  
66 powers vested with the general assembly pursuant to chapter 536,  
67 RSMo, to review, to delay the effective date, or to disapprove and annul  
68 a rule are subsequently held unconstitutional, then the grant of  
69 rulemaking authority and any rule proposed or adopted after August  
70 28, 2007, shall be invalid and void.

71 7. The provisions of this section shall apply to all tax years  
72 beginning on or after January 1, 2008.

73 8. The provisions of this section shall not apply to section 23.253,  
74 RSMo, of the Missouri sunshine act.

135.568. 1. This section shall be known and may be cited as the  
2 "Business Relocation for Secondary Mine Use Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of the department of revenue;

6 (3) "Eligible costs", expenses incurred by a taxpayer in relocating  
7 to an existing mine for use of the mine other than mining;

8 (4) "Existing mine for secondary use", a mine with usable  
9 secondary space of one million or more square feet;

10 (5) "Notice of intent", a form developed by the department of  
11 economic development, completed by the taxpayer and submitted to the  
12 department which states the taxpayer's intent to relocate a business to  
13 an existing mine for secondary use;

14 (6) "Tax liability", the tax due under chapters 143, 147, or 148,  
15 RSMo, other than taxes withheld under sections 143.191 to 143.265,  
16 RSMo;

17           (7) "Taxpayer", a person, firm, a partner in a firm, corporation,  
18 or a shareholder in an S corporation doing business in the state of  
19 Missouri and subject to the state income tax imposed by the provisions  
20 of chapter 143, RSMo, or a corporation subject to the annual  
21 corporation franchise tax imposed by the provisions of chapter 147,  
22 RSMo, or an insurance company paying an annual tax on its gross  
23 premium receipts in this state, or an insurance company organized to  
24 do business on a not-for-profit basis, or other financial institution  
25 paying taxes to the state of Missouri, or any political subdivision of this  
26 state under the provisions of chapter 148, RSMo, or an individual  
27 subject to the state income tax imposed by the provisions of chapter  
28 143, RSMo.

29           3. If any taxpayer incurs eligible costs for the relocation of a  
30 business into an existing mine for purposes other than mining, such  
31 taxpayer shall receive a tax credit against such taxpayer's Missouri  
32 income tax liability in an amount equal to the lesser of fifty percent of  
33 such costs or ten thousand dollars. Tax credits issued under this  
34 subsection are not refundable, but may be carried forward five years  
35 until used. Tax credits issued in accordance with this section may be  
36 transferred, sold or assigned by notarized endorsement thereof which  
37 names the transferee.

38           4. In no event shall the aggregate amount of all tax credits  
39 allowed under this section exceed one hundred thousand dollars per  
40 fiscal year.

41           5. In order to receive tax credits under this section, a taxpayer  
42 shall first file a notice of intent with the department of economic  
43 development. The department shall issue approval based upon the  
44 merit of the application and grant preference to those applications  
45 which the department of economic development deems to possess a  
46 likelihood of positive economic impact. The department of economic  
47 development shall respond within thirty days to a company who  
48 provides a notice of intent with either a proposal or a rejection of the  
49 notice of intent. Failure to respond on behalf of the department of  
50 economic development shall result in the notice of intent being deemed  
51 a proposal for the purposes of this section. A taxpayer who is provided  
52 a proposal for a project shall be allowed a benefit as provided in this

53 program in the amount and duration provided in this section. A  
54 taxpayer shall claim a credit allowed by this section at the time such  
55 taxpayer files his or her Missouri income tax return, provided that such  
56 return is filed within six months after purchasing the vehicle.

57 6. The department may promulgate such rules or regulations as  
58 are necessary to administer the provisions of this section. Any rule or  
59 portion of a rule, as that term is defined in section 536.010, RSMo, that  
60 is created under the authority delegated in this section shall become  
61 effective only if it complies with and is subject to all of the provisions  
62 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
63 section and chapter 536, RSMo, are nonseverable and if any of the  
64 powers vested with the general assembly pursuant to chapter 536,  
65 RSMo, to review, to delay the effective date, or to disapprove and annul  
66 a rule are subsequently held unconstitutional, then the grant of  
67 rulemaking authority and any rule proposed or adopted after August  
68 28, 2007, shall be invalid and void.

69 7. The provisions of this section shall apply to all tax years  
70 beginning on or after January 1, 2008.

71 8. The provisions of this section shall not apply to section 23.253,  
72 RSMo, of the Missouri sunshine act.

135.569. 1. This section shall be known and may be cited as the  
2 "The Abandoned Mine Safety Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of the department of revenue;

6 (3) "Eligible costs", expenses incurred by a taxpayer in  
7 implementing safety measures in abandoned mines including but not  
8 limited to the purchase of safety equipment and devices, architectural  
9 fees, engineering fees, site preparation, and excavation;

10 (4) "Tax liability", the tax due under chapters 143, 147, or 148,  
11 RSMo, other than taxes withheld under sections 143.191 to 143.265,  
12 RSMo;

13 (5) "Taxpayer", a person, firm, a partner in a firm, corporation,  
14 or a shareholder in an S corporation doing business in the state of  
15 Missouri and subject to the state income tax imposed by the provisions  
16 of chapter 143, RSMo, or a corporation subject to the annual

17 corporation franchise tax imposed by the provisions of chapter 147,  
18 RSMo, or an insurance company paying an annual tax on its gross  
19 premium receipts in this state, or an insurance company organized to  
20 do business on a not-for-profit basis, or other financial institution  
21 paying taxes to the state of Missouri or any political subdivision of this  
22 state under the provisions of chapter 148, RSMo, or an individual  
23 subject to the state income tax imposed by the provisions of chapter  
24 143, RSMo.

25           3. If any taxpayer incurs eligible costs for the implementation of  
26 safety measures in an abandoned mine, such taxpayer shall receive a  
27 tax credit against such taxpayer's Missouri income tax liability in an  
28 amount equal to the lesser of fifty percent of such costs or fifty  
29 thousand dollars. Tax credits issued under this subsection are not  
30 refundable, but may be carried forward five years until used. Tax  
31 credits issued in accordance with this section may be transferred, sold  
32 or assigned by notarized endorsement thereof which names the  
33 transferee.

34           4. In no event shall the aggregate amount of all tax credits  
35 allowed under this section exceed five hundred thousand dollars per  
36 fiscal year. The tax credits issued under this section will be on a first-  
37 come, first-served filing basis.

38           5. A taxpayer shall claim a credit allowed by this section at the  
39 time such taxpayer files his or her Missouri income tax return,  
40 provided that such return is filed within six months after purchasing  
41 the vehicle.

42           6. The department may promulgate such rules or regulations as  
43 are necessary to administer the provisions of this section. Any rule or  
44 portion of a rule, as that term is defined in section 536.010, RSMo, that  
45 is created under the authority delegated in this section shall become  
46 effective only if it complies with and is subject to all of the provisions  
47 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
48 section and chapter 536, RSMo, are nonseverable and if any of the  
49 powers vested with the general assembly pursuant to chapter 536,  
50 RSMo, to review, to delay the effective date, or to disapprove and annul  
51 a rule are subsequently held unconstitutional, then the grant of  
52 rulemaking authority and any rule proposed or adopted after August

53 **28, 2007, shall be invalid and void.**

54 **7. The provisions of this section shall apply to all tax years**  
55 **beginning on or after January 1, 2008.**

56 **8. The provisions of this section shall not apply to section 23.253,**  
57 **RSMo, of the Missouri sunshine act.**

144.030. 1. There is hereby specifically exempted from the provisions of  
2 sections 144.010 to 144.525 and from the computation of the tax levied, assessed  
3 or payable pursuant to sections 144.010 to 144.525 such retail sales as may be  
4 made in commerce between this state and any other state of the United States,  
5 or between this state and any foreign country, and any retail sale which the state  
6 of Missouri is prohibited from taxing pursuant to the Constitution or laws of the  
7 United States of America, and such retail sales of tangible personal property  
8 which the general assembly of the state of Missouri is prohibited from taxing or  
9 further taxing by the constitution of this state.

10 2. There are also specifically exempted from the provisions of the local  
11 sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and  
12 sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of  
13 the tax levied, assessed or payable pursuant to the local sales tax law as defined  
14 in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525  
15 and 144.600 to 144.745:

16 (1) Motor fuel or special fuel subject to an excise tax of this state, unless  
17 all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or  
18 upon the sale at retail of fuel to be consumed in manufacturing or creating gas,  
19 power, steam, electrical current or in furnishing water to be sold ultimately at  
20 retail; or feed for livestock or poultry; or grain to be converted into foodstuffs  
21 which are to be sold ultimately in processed form at retail; or seed, limestone or  
22 fertilizer which is to be used for seeding, liming or fertilizing crops which when  
23 harvested will be sold at retail or will be fed to livestock or poultry to be sold  
24 ultimately in processed form at retail; economic poisons registered pursuant to  
25 the provisions of the Missouri pesticide registration law (sections 281.220 to  
26 281.310, RSMo) which are to be used in connection with the growth or production  
27 of crops, fruit trees or orchards applied before, during, or after planting, the crop  
28 of which when harvested will be sold at retail or will be converted into foodstuffs  
29 which are to be sold ultimately in processed form at retail;

30 (2) Materials, manufactured goods, machinery and parts which when used

31 in manufacturing, processing, compounding, mining, producing or fabricating  
32 become a component part or ingredient of the new personal property resulting  
33 from such manufacturing, processing, compounding, mining, producing or  
34 fabricating and which new personal property is intended to be sold ultimately for  
35 final use or consumption; and materials, including without limitation, gases and  
36 manufactured goods, including without limitation, slagging materials and  
37 firebrick, which are ultimately consumed in the manufacturing process by  
38 blending, reacting or interacting with or by becoming, in whole or in part,  
39 component parts or ingredients of steel products intended to be sold ultimately  
40 for final use or consumption;

41 (3) Materials, replacement parts and equipment purchased for use directly  
42 upon, and for the repair and maintenance or manufacture of, motor vehicles,  
43 watercraft, railroad rolling stock or aircraft engaged as common carriers of  
44 persons or property;

45 (4) Replacement machinery, equipment, and parts and the materials and  
46 supplies solely required for the installation or construction of such replacement  
47 machinery, equipment, and parts, used directly in manufacturing, mining,  
48 fabricating or producing a product which is intended to be sold ultimately for  
49 final use or consumption; and machinery and equipment, and the materials and  
50 supplies required solely for the operation, installation or construction of such  
51 machinery and equipment, purchased and used to establish new, or to replace or  
52 expand existing, material recovery processing plants in this state. For the  
53 purposes of this subdivision, a "material recovery processing plant" means a  
54 facility that has as its primary purpose the recovery of materials into a useable  
55 product or a different form which is used in producing a new product and shall  
56 include a facility or equipment which are used exclusively for the collection of  
57 recovered materials for delivery to a material recovery processing plant but shall  
58 not include motor vehicles used on highways. For purposes of this section, the  
59 terms motor vehicle and highway shall have the same meaning pursuant to  
60 section 301.010, RSMo. Material recovery is not the reuse of materials within a  
61 manufacturing process or the use of a product previously recovered. The material  
62 recovery processing plant shall qualify under the provisions of this section  
63 regardless of ownership of the material being recovered;

64 (5) Machinery and equipment, and parts and the materials and supplies  
65 solely required for the installation or construction of such machinery and

66 equipment, purchased and used to establish new or to expand existing  
67 manufacturing, mining or fabricating plants in the state if such machinery and  
68 equipment is used directly in manufacturing, mining or fabricating a product  
69 which is intended to be sold ultimately for final use or consumption;

70 (6) Tangible personal property which is used exclusively in the  
71 manufacturing, processing, modification or assembling of products sold to the  
72 United States government or to any agency of the United States government;

73 (7) Animals or poultry used for breeding or feeding purposes;

74 (8) Newsprint, ink, computers, photosensitive paper and film, toner,  
75 printing plates and other machinery, equipment, replacement parts and supplies  
76 used in producing newspapers published for dissemination of news to the general  
77 public;

78 (9) The rentals of films, records or any type of sound or picture  
79 transcriptions for public commercial display;

80 (10) Pumping machinery and equipment used to propel products delivered  
81 by pipelines engaged as common carriers;

82 (11) Railroad rolling stock for use in transporting persons or property in  
83 interstate commerce and motor vehicles licensed for a gross weight of twenty-four  
84 thousand pounds or more or trailers used by common carriers, as defined in  
85 section 390.020, RSMo, in the transportation of persons or property;

86 (12) Electrical energy used in the actual primary manufacture, processing,  
87 compounding, mining or producing of a product, or electrical energy used in the  
88 actual secondary processing or fabricating of the product, or a material recovery  
89 processing plant as defined in subdivision (4) of this subsection, in facilities  
90 owned or leased by the taxpayer, if the total cost of electrical energy so used  
91 exceeds ten percent of the total cost of production, either primary or secondary,  
92 exclusive of the cost of electrical energy so used or if the raw materials used in  
93 such processing contain at least twenty-five percent recovered materials as  
94 defined in section 260.200, RSMo. There shall be a rebuttable presumption that  
95 the raw materials used in the primary manufacture of automobiles contain at  
96 least twenty-five percent recovered materials. For purposes of this subdivision,  
97 "processing" means any mode of treatment, act or series of acts performed upon  
98 materials to transform and reduce them to a different state or thing, including  
99 treatment necessary to maintain or preserve such processing by the producer at  
100 the production facility;

101 (13) Anodes which are used or consumed in manufacturing, processing,  
102 compounding, mining, producing or fabricating and which have a useful life of  
103 less than one year;

104 (14) Machinery, equipment, appliances and devices purchased or leased  
105 and used solely for the purpose of preventing, abating or monitoring air pollution,  
106 and materials and supplies solely required for the installation, construction or  
107 reconstruction of such machinery, equipment, appliances and devices, and so  
108 certified as such by the director of the department of natural resources, except  
109 that any action by the director pursuant to this subdivision may be appealed to  
110 the air conservation commission which may uphold or reverse such action;

111 (15) Machinery, equipment, appliances and devices purchased or leased  
112 and used solely for the purpose of preventing, abating or monitoring water  
113 pollution, and materials and supplies solely required for the installation,  
114 construction or reconstruction of such machinery, equipment, appliances and  
115 devices, and so certified as such by the director of the department of natural  
116 resources, except that any action by the director pursuant to this subdivision may  
117 be appealed to the Missouri clean water commission which may uphold or reverse  
118 such action;

119 (16) Tangible personal property purchased by a rural water district;

120 (17) All amounts paid or charged for admission or participation or other  
121 fees paid by or other charges to individuals in or for any place of amusement,  
122 entertainment or recreation, games or athletic events, including museums, fairs,  
123 zoos and planetariums, owned or operated by a municipality or other political  
124 subdivision where all the proceeds derived therefrom benefit the municipality or  
125 other political subdivision and do not inure to any private person, firm, or  
126 corporation;

127 (18) All sales of insulin and prosthetic or orthopedic devices as defined on  
128 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the  
129 Social Security Act of 1965, including the items specified in Section 1862(a)(12)  
130 of that act, and also specifically including hearing aids and hearing aid supplies  
131 and all sales of drugs which may be legally dispensed by a licensed pharmacist  
132 only upon a lawful prescription of a practitioner licensed to administer those  
133 items, including samples and materials used to manufacture samples which may  
134 be dispensed by a practitioner authorized to dispense such samples and all sales  
135 of medical oxygen, home respiratory equipment and accessories, hospital beds and

136 accessories and ambulatory aids, all sales of manual and powered wheelchairs,  
137 stairway lifts, Braille writers, electronic Braille equipment and, if purchased by  
138 or on behalf of a person with one or more physical or mental disabilities to enable  
139 them to function more independently, all sales of scooters, reading machines,  
140 electronic print enlargers and magnifiers, electronic alternative and augmentative  
141 communication devices, and items used solely to modify motor vehicles to permit  
142 the use of such motor vehicles by individuals with disabilities or sales of  
143 over-the-counter or nonprescription drugs to individuals with disabilities;

144 (19) All sales made by or to religious and charitable organizations and  
145 institutions in their religious, charitable or educational functions and activities  
146 and all sales made by or to all elementary and secondary schools operated at  
147 public expense in their educational functions and activities;

148 (20) All sales of aircraft to common carriers for storage or for use in  
149 interstate commerce and all sales made by or to not-for-profit civic, social, service  
150 or fraternal organizations, including fraternal organizations which have been  
151 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the  
152 1986 Internal Revenue Code, as amended, in their civic or charitable functions  
153 and activities and all sales made to eleemosynary and penal institutions and  
154 industries of the state, and all sales made to any private not-for-profit institution  
155 of higher education not otherwise excluded pursuant to subdivision (19) of this  
156 subsection or any institution of higher education supported by public funds, and  
157 all sales made to a state relief agency in the exercise of relief functions and  
158 activities;

159 (21) All ticket sales made by benevolent, scientific and educational  
160 associations which are formed to foster, encourage, and promote progress and  
161 improvement in the science of agriculture and in the raising and breeding of  
162 animals, and by nonprofit summer theater organizations if such organizations are  
163 exempt from federal tax pursuant to the provisions of the Internal Revenue Code  
164 and all admission charges and entry fees to the Missouri state fair or any fair  
165 conducted by a county agricultural and mechanical society organized and  
166 operated pursuant to sections 262.290 to 262.530, RSMo;

167 (22) All sales made to any private not-for-profit elementary or secondary  
168 school, all sales of feed additives, medications or vaccines administered to  
169 livestock or poultry in the production of food or fiber, all sales of pesticides used  
170 in the production of crops, livestock or poultry for food or fiber, all sales of

171 bedding used in the production of livestock or poultry for food or fiber, all sales  
172 of propane or natural gas, electricity or diesel fuel used exclusively for drying  
173 agricultural crops, natural gas used in the primary manufacture or processing of  
174 fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and  
175 electricity used by an eligible new generation cooperative or an eligible new  
176 generation processing entity as defined in section 348.432, RSMo, and all sales  
177 of farm machinery and equipment, other than airplanes, motor vehicles and  
178 trailers. As used in this subdivision, the term "feed additives" means tangible  
179 personal property which, when mixed with feed for livestock or poultry, is to be  
180 used in the feeding of livestock or poultry. As used in this subdivision, the term  
181 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and  
182 other assorted pesticide carriers used to improve or enhance the effect of a  
183 pesticide and the foam used to mark the application of pesticides and herbicides  
184 for the production of crops, livestock or poultry. As used in this subdivision, the  
185 term "farm machinery and equipment" means new or used farm tractors and such  
186 other new or used farm machinery and equipment and repair or replacement  
187 parts thereon, and supplies and lubricants used exclusively, solely, and directly  
188 for producing crops, raising and feeding livestock, fish, poultry, pheasants,  
189 chukar, quail, or for producing milk for ultimate sale at retail, including field  
190 drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which  
191 is:

192 (a) Used exclusively for agricultural purposes;

193 (b) Used on land owned or leased for the purpose of producing farm  
194 products; and

195 (c) Used directly in producing farm products to be sold ultimately in  
196 processed form or otherwise at retail or in producing farm products to be fed to  
197 livestock or poultry to be sold ultimately in processed form at retail;

198 (23) Except as otherwise provided in section 144.032, all sales of metered  
199 water service, electricity, electrical current, natural, artificial or propane gas,  
200 wood, coal or home heating oil for domestic use and in any city not within a  
201 county, all sales of metered or unmetered water service for domestic use:

202 (a) "Domestic use" means that portion of metered water service,  
203 electricity, electrical current, natural, artificial or propane gas, wood, coal or  
204 home heating oil, and in any city not within a county, metered or unmetered  
205 water service, which an individual occupant of a residential premises uses for

206 nonbusiness, noncommercial or nonindustrial purposes. Utility service through  
207 a single or master meter for residential apartments or condominiums, including  
208 service for common areas and facilities and vacant units, shall be deemed to be  
209 for domestic use. Each seller shall establish and maintain a system whereby  
210 individual purchases are determined as exempt or nonexempt;

211 (b) Regulated utility sellers shall determine whether individual purchases  
212 are exempt or nonexempt based upon the seller's utility service rate  
213 classifications as contained in tariffs on file with and approved by the Missouri  
214 public service commission. Sales and purchases made pursuant to the rate  
215 classification "residential" and sales to and purchases made by or on behalf of the  
216 occupants of residential apartments or condominiums through a single or master  
217 meter, including service for common areas and facilities and vacant units, shall  
218 be considered as sales made for domestic use and such sales shall be exempt from  
219 sales tax. Sellers shall charge sales tax upon the entire amount of purchases  
220 classified as nondomestic use. The seller's utility service rate classification and  
221 the provision of service thereunder shall be conclusive as to whether or not the  
222 utility must charge sales tax;

223 (c) Each person making domestic use purchases of services or property  
224 and who uses any portion of the services or property so purchased for a  
225 nondomestic use shall, by the fifteenth day of the fourth month following the year  
226 of purchase, and without assessment, notice or demand, file a return and pay  
227 sales tax on that portion of nondomestic purchases. Each person making  
228 nondomestic purchases of services or property and who uses any portion of the  
229 services or property so purchased for domestic use, and each person making  
230 domestic purchases on behalf of occupants of residential apartments or  
231 condominiums through a single or master meter, including service for common  
232 areas and facilities and vacant units, under a nonresidential utility service rate  
233 classification may, between the first day of the first month and the fifteenth day  
234 of the fourth month following the year of purchase, apply for credit or refund to  
235 the director of revenue and the director shall give credit or make refund for taxes  
236 paid on the domestic use portion of the purchase. The person making such  
237 purchases on behalf of occupants of residential apartments or condominiums shall  
238 have standing to apply to the director of revenue for such credit or refund;

239 (24) All sales of handicraft items made by the seller or the seller's spouse  
240 if the seller or the seller's spouse is at least sixty-five years of age, and if the total

241 gross proceeds from such sales do not constitute a majority of the annual gross  
242 income of the seller;

243 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041,  
244 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United  
245 States Code. The director of revenue shall promulgate rules pursuant to chapter  
246 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

247 (26) Sales of fuel consumed or used in the operation of ships, barges, or  
248 waterborne vessels which are used primarily in or for the transportation of  
249 property or cargo, or the conveyance of persons for hire, on navigable rivers  
250 bordering on or located in part in this state, if such fuel is delivered by the seller  
251 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such  
252 river;

253 (27) All sales made to an interstate compact agency created pursuant to  
254 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the  
255 exercise of the functions and activities of such agency as provided pursuant to the  
256 compact;

257 (28) Computers, computer software and computer security systems  
258 purchased for use by architectural or engineering firms headquartered in this  
259 state. For the purposes of this subdivision, "headquartered in this state" means  
260 the office for the administrative management of at least four integrated facilities  
261 operated by the taxpayer is located in the state of Missouri;

262 (29) All livestock sales when either the seller is engaged in the growing,  
263 producing or feeding of such livestock, or the seller is engaged in the business of  
264 buying and selling, bartering or leasing of such livestock;

265 (30) All sales of barges which are to be used primarily in the  
266 transportation of property or cargo on interstate waterways;

267 (31) Electrical energy or gas, whether natural, artificial or propane, water,  
268 or other utilities which are ultimately consumed in connection with the  
269 manufacturing of cellular glass products or in any material recovery processing  
270 plant as defined in subdivision (4) of this subsection;

271 (32) Notwithstanding other provisions of law to the contrary, all sales of  
272 pesticides or herbicides used in the production of crops, aquaculture, livestock or  
273 poultry;

274 (33) Tangible personal property and utilities purchased for use or  
275 consumption directly or exclusively in the research and development of

276 agricultural/biotechnology and plant genomics products and prescription  
277 pharmaceuticals consumed by humans or animals;

278 (34) All sales of grain bins for storage of grain for resale;

279 (35) All sales of feed which are developed for and used in the feeding of  
280 pets owned by a commercial breeder when such sales are made to a commercial  
281 breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections  
282 273.325 to 273.357, RSMo;

283 (36) All purchases by a contractor on behalf of an entity located in another  
284 state, provided that the entity is authorized to issue a certificate of exemption for  
285 purchases to a contractor under the provisions of that state's laws. For purposes  
286 of this subdivision, the term "certificate of exemption" shall mean any document  
287 evidencing that the entity is exempt from sales and use taxes on purchases  
288 pursuant to the laws of the state in which the entity is located. Any contractor  
289 making purchases on behalf of such entity shall maintain a copy of the entity's  
290 exemption certificate as evidence of the exemption. If the exemption certificate  
291 issued by the exempt entity to the contractor is later determined by the director  
292 of revenue to be invalid for any reason and the contractor has accepted the  
293 certificate in good faith, neither the contractor or the exempt entity shall be liable  
294 for the payment of any taxes, interest and penalty due as the result of use of the  
295 invalid exemption certificate. Materials shall be exempt from all state and local  
296 sales and use taxes when purchased by a contractor for the purpose of fabricating  
297 tangible personal property which is used in fulfilling a contract for the purpose  
298 of constructing, repairing or remodeling facilities for the following:

299 (a) An exempt entity located in this state, if the entity is one of those  
300 entities able to issue project exemption certificates in accordance with the  
301 provisions of section 144.062; or

302 (b) An exempt entity located outside the state if the exempt entity is  
303 authorized to issue an exemption certificate to contractors in accordance with the  
304 provisions of that state's law and the applicable provisions of this section;

305 (37) All sales or other transfers of tangible personal property to a lessor  
306 who leases the property under a lease of one year or longer executed or in effect  
307 at the time of the sale or other transfer to an interstate compact agency created  
308 pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,  
309 RSMo;

310 (38) Sales of tickets to any collegiate athletic championship event that is

311 held in a facility owned or operated by a governmental authority or commission,  
312 a quasi-governmental agency, a state university or college or by the state or any  
313 political subdivision thereof, including a municipality, and that is played on a  
314 neutral site and may reasonably be played at a site located outside the state of  
315 Missouri. For purposes of this subdivision, "neutral site" means any site that is  
316 not located on the campus of a conference member institution participating in the  
317 event;

318 (39) All purchases by a sports complex authority created under section  
319 64.920, RSMo;

320 **(40) The sale of equipment to businesses relocating to an existing**  
321 **mine for purposes other than mining if such equipment will actually be**  
322 **permanently placed in the mine; and**

323 **(41) Electrical energy or gas, whether natural, artificial or**  
324 **propane, water, or other utilities including telecommunication services**  
325 **which are ultimately consumed in connection with a business**  
326 **relocating to an existing mine for purposes other than mining.**

Bill ✓

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